IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Bhabut Ram. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 4857/2004.

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Date of Order: January 22, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Girish Joshi, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.
Mr. Pankaj Bohra, for the non-petitioner No. 2.

BY THE COURT:

By the instant writ petition under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing of the charge-sheet Annx.1 dated 21-6-2000 and consequent thereupon to promote him from the date when his juniors have been promoted.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that by the order Annx.6 dated 18-6-2001, the Secretary, Krishi Upaj Mandi Samiti, Rani, the Inquiry Officer, held an inquiry and found that the allegation against the petitioner is proved, however, instead of punishing him,

recommended for unrecorded warning, but vide order Annx.8 dated 5-9-2001, the punishment of withholding of one annual grade increment with cumulative effect has been imposed and that order Annx.8 has been challenged by the petitioner.

The petitioner was served with a Memorandum of Allegations Annx.1 dated 21-6-2000 with the allegations that he demanded illegal gratification from one Uda Ram while working on the post of Lower Division Clerk. The inquiry was held and the inquiry officer submitted the report that the charges levelled against the petitioner have not been proved. However, the matter was again ordered to be inquired into and the Secretary, Krishi Upaj Mandi Samiti, Rani, in the second inquiry, found the petitioner guilty and holding the charges to be proved, recommended for unrecorded warning. Instead of unrecorded warning, vide order Annx.8 dated 5-9-2001, the punishment of withholding of one annual grade increment with cumulative effect was imposed against the petitioner.

A reply to the writ petition has been filed by the respondents. In para 4 of the reply, the respondents have admitted that the Inquiry Officer the then Secretary, Krishi Upaj Mandi Samiti, Rani, did not find the charges No.1 and 2 proves against the present petitioner and he was exonerated with the approval of the Administrator vide order dated 18-12-2000 and it was held that the charges have not been proved against the

petitioner. This inquiry report was further presented to the Director, Agricultural Market Board, Jaipur and the respondent Director, vide order dated 19.1.2002 decided to go for second inquiry and under the directions of the respondent Director, second Inquiry Officer conducted the inquiry and while admitting the contentions raised in para 7 of the writ petition, the respondents stated that it is very much right that the Inquiry Officer, in his inquiry stated that petitioner Bhabut Ram neither demanded bribe, nor he got it in kind or cash. In para 8 of the reply, it has been admitted that the respondent Krishi Upaj Mandi Samiti, while accepting the inquiry report, has recommended to give oral warning and the matter was sent to the respondent Director vide letter dated 7-6-2001 in exercise of the power under Section 39 of the Rajasthan Agriculture Produce Marketing Act, 1961 and the respondent Director changed the proposed punishment and instead of unrecorded warning to that of stoppage of one annual grade increment with cumulative effect.

From the reply, it appears that the first Inquiry Officer did not find the charges proved against the present petitioner and recommended for his exoneration with the approval of the Administrator vide Annx.4, but then the respondent Director went on to hold second inquiry on the same charges with the same set of material and held that the charges

have been proved against the present petitioner.

Be that as it may, without there being any fresh material, the conclusion arrived at by the second Inquiry Officer holding the charges having been proved and imposing the punishment of stoppage of one annual grade increment with cumulative effect as against the proposed unrecorded warning, appears to be disproportionate. Without going into the legality of the conclusion arrived at by the second Inquiry Officer, in my view, to meet the ends of justice, the order Annx.8, imposing the punishment of withholding of one annual grade increment with cumulative effect, deserves to be modified to that of unrecorded warning as proposed vide Annx.4.

In this view of the matter, the writ petition is partly allowed and the impugned order Annx.8 dated 5-9-2001 is modified to the extent that instead of punishment of withholding of one annual grade increment with cumulative effect, unrecorded warning would meet the ends of justice. The stay petition stands disposed of. There shall be no order as to costs.

(H.R. PANWAR), J.

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